UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,859	10/31/2003	Howard W. Lutnick	02-1078	5126

63710   7590   06/25/2009
DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

EXAMINER
ALI, HATEM M

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
06/25/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *20 March 2009*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-30* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-30* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *6/11/09*.

4) ☐ Interview Summary (PTO-413)
        Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

DETAILED ACTION

1.   In view of the Appeal Brief filed on **3/20/09**, PROSECUTION IS HEREBY

REOPENED.

To avoid abandonment of the application, appellant must exercise one of the
following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed

by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and

appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth

in 37 CFR 41.20 have been increased since they were previously paid, then appellant

must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by

signing below:

/Kambiz Abdi/

Supervisory Patent Examiner, Art Unit 3692

2.   The following is **an office Action** in response to the communication received on

3/20/09

Acknowledgement

3.   **Claim** Status :

   ❖ Amended **claims: 1-2, 4-5, 7,** and **9-21**.

   ❖ As such pending **claims**: **1-30**

Abstract

4.   **Applicant** is reminded of the proper language and format for an abstract of the

disclosure.

The abstract should be in narrative form and generally limited to a single

paragraph on a separate sheet within the range of 50 to 150 words. It is important that

the abstract not exceed 150 words in length since the space provided for the abstract

on the computer tape used by the printer is limited. The form and legal phraseology

often used in patent claims, such as "means" and "said," should be avoided. The

abstract should describe the disclosure sufficiently to assist readers in deciding whether

there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information

given in the title. It should avoid using phrases which can be implied, such as, "The

disclosure concerns," "The disclosure defined by this invention," "The disclosure

describes," etc.

Claim Rejections - 35 USC § 112

5.   **Claims 1** and **12** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. .

In the claim 1, at lines 20 and 23, the recitation that, "replace the trading information to the first benchmark issue in the first quad" and "to replace the trading information related to the second benchmark issue in the second quad" are new matters not clearly found in the specification.

In the claim 12, the recitation, at lines 6 and 10, that, "receiving a selection of a key on a keyboard associated" and "replacing the trading information related to a benchmark issue in a trading quadrant" are also new matters not clearly found in the specification.

Claim Rejections - 35 USC § 101

6.   **35 U.S.C. 101 reads as follows:**

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-19 and **25-30** are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In

re **Bilski** et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184

(1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S.

63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would **not** qualify as a statutory process

would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory

process, the claim should positively recite the other statutory class (the thing or product)

to which it is tied, for example by identifying the apparatus that accomplishes the

method steps, or positively recite the subject matter that is being transformed, for

example by identifying the material that is being changed to a different state.

Here, applicant's method steps fail the first prong of the new Federal Circuit

decision since they are not tied to a machine and can be performed without the use of a

particular machine. Thus, **claims 12-19** and **25-30** are non-statutory since they may be

performed within the human mind.

The mere recitation of the machine in the preamble with an absence of a

machine in the body of the claim fails to make the claim statutory under 35 USC 101.

Insignificant extra-solution activity will not transform an unpatentable principle

into a patentable process (see John Love, Deputy Commissioner for Patent

Examination Policy, memorandum Jan. 7, 2009).

Note: the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al-

http://iplaw.bna.com/iplw/5000/split_display.adp?fedfid=10988734&vname=ippgcases2

&wsn=500826000&searchid=6198805&doctypeid=1&type=court&mode=doc&split=0&s

cm=5000&pg=0

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious
> at the time the invention was made to a person having ordinary skill in the art to which said
> subject matter pertains. Patentability shall not be negatived by the manner in which the invention
> was made.

8.   **Claims 1-30** are rejected under 35 U.S.C. 103 (a) as being unpatentable over

Fraser et al in views of *Wiseman* et al (5,168,446).

        As per claim 1, *Fraser* discloses a system for allowing traders to switch

between multiple issues in trading quadrants (**Abstract;** via programmed controlled

trading logic and paradigms), the system comprising:

        a   display   device   (**Fig.1;**   via   workstation   including   display   device);

        a keyboard that has keys comprising a keys include a key associated with a first

benchmark issue and a key associated with a first non-benchmark issue related to the

first benchmark issue, and a key associated with a second benchmark issue and a key

associated with a non-benchmark issue related to the second benchmark issue;

(**Fig.3A**; via keyboard with programmed issue keys for inherent specific benchmarks);

and

        a processor configured (**col.4,** lines 55-65; via computer base data processing

system) to:

allow a trader to select the first non-benchmark issue that is related to the first

benchmark issue by pressing the key on the keyboard that is mapped to the first non-

benchmark issue and to select the second non-benchmark issue that is related to the

second benchmark issue by pressing the key on the keyboard that is mapped to the

second non-benchmark issue (**Fig.3A**; programmed issue tabs are mapped for

benchmark / non-benchmark issues and **col.5**, lines 1-6, **col.2**, line 1-15 and **col.9-10**;

via **Quad 1** and **Quad 2** with implied benchmark issues working same time with system

logic and **Fig.3A-C**); and

direct the display device to replace the trading information related to the first

benchmark issue in the first quad with trading information related to the first non-

benchmark issue with a selection of the key associated with the first non-benchmark

issue and to replace the trading information related to the second benchmark issue in

the second quad with trading information related to the second non-benchmark issue

with a selection of the key associated with the second non-benchmark issue (**Fig.3A-C**;

programmed issue tabs for implied benchmark/non-benchmark issues).

Fraser fails explicitly to disclose direct the display device to display

simultaneously a first trading quadrant comprising trading information related to the first

benchmark issue and a second trading quadrant comprising trading information related

to the second benchmark issue

However, *Wiseman* being in the same field of invention discloses direct the

display device to display simultaneously a first trading quadrant comprising trading

information related to the first benchmark issue and a second trading quadrant

comprising trading information related to the second benchmark issue (see **Abstract** and **col.2**, lines 38+ and **col.32,** lines 53+;via a video display screen is divided into a number of quadrants or sectors, e.g. four to display the status if ... trades at one time).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by *Fraser* to include the disclosure as taught by *Wiseman* to facilitate the traders with manageable number of input fields concurrently.

As per claims 2 and 3, *Fraser* discloses the keyboard <u>comprises</u> a key for price improvement <u>that when selected improves on an existing market price for a selected issue and places the order with the improved price in front of other orders in a trading stack</u> and has a key for direct dealing **(Fig.3A** and **col.4-5**, lines 60-68 and 1-32; via dedicated keypad with programmed keystroke command and control logic inherently with better price and direct dealing system).

As per claims 4, 5, 6, 7, and 8, *Fraser* discloses the processor is further configured to direct the display device to display a second trading quadrant that includes information related to the selected non-benchmark issue and a treasury swaps trading quadrant having at least three of the most recent issues and it is off-the-run trading quadrant (**col.5**, lines 1-6, **col.2**, lines 1-15 and **col.10**; via Quad 2 with inherent recent benchmark issues and it is off-the-run quad).

As per claims 9, 10, and 11, *Fraser* discloses the second trading quadrant is a yield curve, a basis and a limit order-trading quadrant (**col.10** and col.4, lines 45-50; limit orders and other inherent programmed logical basis and yield curve).

As per claim 12, *Fraser* discloses a method for allowing a trader to switch between multiple issues (**Fig.3B**) in a trading quadrant, the method comprising:

receiving a selection of a key on a keyboard associated with at least one non-benchmark issue that is related to at least one of the first and second benchmark issues that is mapped to the at least one non-benchmark issue (**Fig.3A-C**; programmed issue tabs with keyboard implied for first/second benchmark/non-benchmark issues and **col.5**, lines 1-6, **col.2,** line 1-15 and **col.9-10**; via **Quad 1** and **Quad 2** with inherent benchmark issues); and

replacing the trading information related to a benchmark issue in a trading quadrant with trading information related to the selected non-benchmark issue (**col.2**; via treasury securities/benchmark issues and **col.5**, lines 1-6, **col.2,** line 1-15 and **col.10**; via **Quad 2** with inherent recent benchmark issues and it is off-the-run quad).

Fraser fails explicitly to disclose displaying simultaneously a first trading quadrant comprising trading information related to a first benchmark issue and a second trading quadrant comprising trading information related to a second benchmark issue

However, *Wiseman* being in the same field of invention discloses displaying simultaneously a first trading quadrant comprising trading information related to a first benchmark issue and a second trading quadrant comprising trading information related to a second benchmark issue (see **Abstract** and **col.2**, lines 38+ and **col.32**, lines 53+;via a video display screen is divided into a number of quadrants or sectors, e.g. four to display the status if … trades at one time).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by *Fraser* to include the disclosure as taught by *Wiseman* to facilitate the traders with manageable number of input fields concurrently.

Claims 13 -14 are rejected as per the reasons set forth in claims **4-5** respectively

Claim 15 is rejected as per the reasons set forth in claim **7**

Claims 16-18 are rejected as per the reasons set forth in claims **9-11** respectively.

As per claim 19, Fraser discloses a method for allowing a trader to switch between multiple issues (**Fig.3A**) in a trading quadrant, the method comprising:

displaying a first trading quadrant comprising trading information related to a benchmark issue (**col.5**, lines 1-6, **col.2**, line 1-15 and **col.9**; via **Quad 1** with inherent benchmark issues);

receiving a selection of a key on a keyboard associated with at least one non-benchmark issue that is related to the benchmark issue by pressing that is mapped to the at least one non-benchmark issue (**Fig.3A;** programmed issue tabs with keyboard); and

(**col.5**, lines 1-6, **col.2**, line 1-15 and **col.10;** via **Quad 2** with inherent recent benchmark issues and it is off-the-run quad).

Fraser fails explicitly to disclose the step of displaying simultaneously a second trading quadrant for the selected non-benchmark issue, wherein the second trading quadrant comprises trading information related to the selected non-benchmark issue

However, *Wiseman* being in the same field of invention discloses the step of displaying simultaneously a second trading quadrant for the selected non-benchmark issue, wherein the second trading quadrant comprises trading information related to the selected non-benchmark issue (see **Abstract** and **col.2**, lines 38+ and **col.32**, lines 53+;via a video display screen is divided into a number of quadrants or sectors, e.g. four to display the status if ... trades at one time).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by *Fraser* to include the disclosure as taught by *Wiseman* to facilitate the traders with manageable number of input fields concurrently.

As per claim 20, *Fraser* discloses a system for providing direct dealing information (**col.7,** lines 33-57), the system comprising:

a server storage device (**Fig.1** and **col.7**, lines 32-57; via servers **30** and **40** and data processor database);

a server processor connected to the server storage device, the server storage device storing a server program for controlling the server processor, the server processor operative with the server program (**col.7**, lines 40-4; via Pentium Processor based PCs, SPARC Station using UNIX) to:

receive real-time direct dealing content related to an item and trading information related to the item for use in a trading quadrant, wherein the direct dealing content comprises at least one of a request a quote, a response with a price, a cancel to a response, an amend a response, or an accept a response, and wherein the trading

information comprises limit order for the item (**col.7,** lines 50-55 and **col.9,** lines 1-40

and also **col.10**, line 15-68; via **Quad 2** , customers[CUST] and pricing); and

a plurality of workstations, each of the plurality of workstations operative to

communicate with the server, each of the workstations (**Fig.1**) comprising:

a workstation storage device (**col.7**, lines 40-45; PCs with SPARC Station); and

a workstation processor connected to the workstation storage device, the

workstation storage device storing a workstation program for controlling the workstation

processor, the workstation program operative to display the trading quadrant comprising

the limit order data for the item comprises the received real-time direct dealing content

(**col.8**, lines 1-52).

Fraser fails to explicitly teach simultaneously display the trading quadrant

comprising the trading information related to the item

However, *Wiseman* being in the same field of invention discloses

simultaneously display the trading quadrant comprising the trading information related

to the item (see **Abstract** and **col.2**, lines 38+ and **col.32,** lines 53+;via a video display

screen is divided into a number of quadrants or sectors, e.g. four to display the status if

… trades at one time).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of invention was made to modify the disclosure and features mentioned by *Fraser*

to include the process of ticker pages with direct trade order information as taught by

Wiseman in order to facilitate the traders with manageable number of input fields

concurrently.

As per claims 21 and 22, *Fraser* discloses the server programmed to receive a midprice order to buy or sell an item at a price within a spread market and update the direct dealing content in the ticker <u>to include the midprice order to buy or sell the item</u> (**col.4,** lines 54-60, programmed logic and **col.9**, indicating a spread of .02).

As per claims 23 and 24, *Fraser* explicitly fails to disclose that the ticker includes at least one request and one response, which include orientation and size (**col. 8**; via various states ... type of inputes0

As per claim 25, *Fraser* discloses a method for providing direct dealing information in a trading quadrant that has trading information (**col.8**, lines 61-68; via display of trading quadrant), the method comprising:

receiving real-time direct dealing content for use in the trading quadrant (**col.8**, lines 6-68; via real-time distribution and screen display in a trading quadrant).

Fraser fails explicitly to disclose simultaneously displaying the trading quadrant

However, *Wiseman* being in the same field of invention teaches simultaneously displaying the trading quadrant (see **Abstract** and **col.2**, lines 38+ and **col.32**, lines 53+;via a video display screen is divided into a number of quadrants or sectors, e.g. four to display the status if ... trades at one time).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by *Fraser* to include the disclosure as taught by *Wiseman* in order to facilitate the traders with manageable number of input fields concurrently.

Claims 26 and 27 are rejected as per the reasons set forth in claims **21** and **22**

Claims 28 and 29 are rejected as per the reasons set forth in claims **23** and **24**

As per claim 30, *Fraser* discloses. a method for providing real-time direct dealing information in a trading quadrant that has trading information (**col.8,** lines 61-68; via display of trading quadrant), the method comprising:

receiving a midprice order to buy or sell an item at a price within a spread market (**col.4**, lines 54-60, programmed logic and **col.9**, indicating a spread of .02).

updating direct dealing content in a direct dealing ticker in response to receiving the midprice order (see **Abstract** -programmed controlled workstation).

Fraser fails to explicitly teach simultaneously displaying the trading quadrant

However, *Wiseman* being in the same field of invention discloses simultaneously displaying the trading quadrant (see **Abstract** and **col.2**, lines 38+ and **col.32,** lines 53+;via a video display screen is divided into a number of quadrants or sectors, e.g. four to display the status if ... trades at one time).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the disclosures and features mentioned by *Fraser* to include the disclosure as taught by *Wiseman* to facilitate the traders with manageable number of input fields concurrently.

Response to Arguments

9.   **Applicant's** arguments with respect to **claims 1-30** have been considered but are **moot** in view of the new ground(s) of rejection.

In response to **Applicants'** Summary of Argument(page 13) that "the following features of independent claim 1, namely replacing the trading information related to tie first benchmark issue in the first quad ... the second quad ... issue " The **Examiner** respectfully observed and added a new prior art of Wiseman (see **Abstract** and **col.2**, lines 38+ and **col.32,** lines 53+;via a video display screen is divided into a number of quadrants or sectors, e.g. four to display the status if ... trades at one time) for further clarification.

Finally as understood, all references cited, are to be considered <u>as a whole</u> of heir entirety.

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Silverman et al (6,625,5830 discloses Handheld trading system interface

Greifeld et al(2002/0198815) discloses System ... sponsored trading.

Kirwin et al(US 2002/0029180 A1) discloses configurable trading interfaces.

Impink (6211880) discloses a display for presenting trends in financial commodities such as stocks.

11.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to HATEM ALI whose telephone number is (571)270-3021. The examiner can normally be reached on 8.00 to 6.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harish T. Dass/   Hatem Ali
Primary Examiner Art Unit 3692   Examiner
                                                        Art Unit 3692